

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of California-American
Water Company (U210W) for
Authorization to Modify Conservation
and Rationing Rules, Rate Design, and
Other Related Issues for the Monterey
District.

A.15-07-019
(Filed July 14, 2015)

**OPENING BRIEF
OF THE OFFICE OF RATEPAYER ADVOCATES
IN PHASE 2 OF APPLICATION 15-07-019**

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SUBJECT INDEX

	<u>Page</u>
TABLE OF AUTHORITIES	iii
SUMMARY OF RECOMMENDATIONS	1
WRAM BALANCE AND AMORTIZATION	1
ANNUAL CONSUMPTION TRUE-UP PROGRAM	1
RATE DESIGN	1
RULE 14.1.1	2
I. INTRODUCTION AND BACKGROUND	1
II. WATER REVENUE ADJUSTMENT MECHANISM (“WRAM”)	2
A. AMORTIZATION	2
B. INTEREST RATE	3
C. AMOUNT	4
1. Cal Am’s Mismanagement of its Allotment Rate Design Has Artificially Exacerbated the WRAM Balances	5
a) Cal Am’s Mismanagement of the Allotment Rate Design Has Led to Over-Reporting of Full-Time Occupants	6
b) Overstatements in the Allotment Surveys Have Led to WRAM Undercollections	7
2. ORA Recommends a Downward Adjustment of \$258,932 to the WRAM Balance for Anomalies in the UAW Reward Calculation	9
3. PwC Recommended WRAM Reduction of \$0.8 Million	10
III. ANNUAL CONSUMPTION TRUE-UP MECHANISM	10
A. CAL AM’S ACTUM DOES NOT PROVIDE BENEFITS TO RATEPAYERS	11
1. The ACTUM Would Not Reduce Surcharges or the WRAM Balance	11
2. There is no Evidence that the ACTUM Would Lower the Costs of the Monterey Peninsula Water Supply Project (“MPWSP”).	12
3. Cal Am’s ACTUM Does Not Resolve the Complex Problems in Monterey.	13
B. ADJUSTMENTS TO ADOPTED CONSUMPTION VALUES NECESSITATE SCRUTINY BEYOND THAT WHICH CAN BE PROVIDED BY ADVICE LETTER FILING	14
C. THE COMMISSION PREVIOUSLY DENIED CAL AM’S REQUEST FOR REASONS THAT STILL EXIST TODAY	16

	D. THE COMMISSION IS EXAMINING THIS ISSUE IN R.11-11-008	16
IV.	RATE DESIGN	17
	A. COST ALLOCATION	17
	B. USE OF 2014 CONSUMPTION	18
	C. ALLOTMENT RATE DESIGN	18
	D. FIXED COST RECOVERY	18
	E. METER CHARGE RATIOS	18
	F. TIERED RATE DIFFERENTIALS.....	19
V.	REVISIONS TO RULE AND SCHEDULE 14.1.1	20
VI.	SAFETY CONSIDERATIONS.....	20
VII.	CONCLUSION.....	20

TABLE OF AUTHORITIES

Page

California Public Utilities Code

PUC § 451	4
-----------------	---

Commission Decisions

D.86-05-064	17, 18
D.09-07-021	5
D.15-04-007	16, 17, 21
D.16-03-014	5

SUMMARY OF RECOMMENDATIONS

SUMMARY OF ORA'S POSITIONS

WRAM Balance and Amortization

The Commission should disallow \$18.5 million of the \$40.6 million Monterey WRAM balance (through 2014), as this portion of the current balance is reasonably attributable to Cal Am's lack of adequate management oversight of its allotment system, adjustments for the unaccounted for water reward/penalty, and the Pricewaterhouse Coopers LLP's ("PwC") audit adjustment recommendation. The amortization of the remaining balance of \$22.1 million should occur over five years with no interest allowed, rather than over 20 years at 8.41 percent, Cal Am's currently-authorized rate of return, as requested by the utility.

In consideration of the significant problems with Cal Am's calculation of Monterey WRAM balances, which only came to light as a result of the time for analysis afforded by this formal proceeding, the Commission should require any Cal Am requests to the Commission to recover future Monterey WRAM balances to be made via formal application and not through the informal advice letter process.

Annual Consumption True-Up Program

The Commission should deny Cal Am's request for an annual consumption true-up program. The program does not provide significant ratepayer benefits, and adjustments to adopted consumption values necessitate scrutiny beyond that which can be provided by advice letter filing. Further, the Commission denied Cal Am's previous request, and the reasons for denial remain valid today. Overall, the request represents a larger-scale policy issue that the Commission is currently examining in a multi-utility rulemaking proceeding.

Rate Design

The Commission should eliminate Cal Am's allotment rate design system and authorize Cal Am to use 2014 actual consumption as the basis for the rate design, in place

of the authorized 2016 estimate. The Commission should authorize Cal Am to recover a greater proportion of its fixed costs through residential monthly meter charges.

The Commission should require Cal Am to realign roughly 8.4 percent or \$3 million of the amount of revenues currently recovered by residential rates to non-residential rates, to more equitably reflect each customer class's proportion of total consumption. The Commission should also adopt ORA's additional rate design recommendations to maintain strong conservation price signals in Monterey.

Rule 14.1.1

The Commission should adopt Cal Am's proposed changes to Rule 14.1.1, with modifications made to reflect ORA's proposed rate design. Further, the Commission should require Cal Am to file a Tier 2 advice letter not only when activating an elevated stage, but also when increasing emergency conservation rates from the proposed Level 1 Conservation Rates to the proposed Level 2 Conservation Rates.

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I. INTRODUCTION AND BACKGROUND

Pursuant to Rule 13.11 of the California Public Utilities Commission (“Commission” or “CPUC”) Rules of Practice and Procedure (“Rules”), the Office of Ratepayer Advocates (“ORA”) files this opening brief in Phase II of the review of Application (“A.”) 15-07-019.

California American Water Company (“Cal Am”) filed A.15-07-019 on July 14, 2015. In its application, Cal Am requests authorization to modify its rate design, to change its water revenue adjustment mechanism (“WRAM”) and modified cost balancing account (“MCBA”) surcharge collection, to implement an annual consumption true-up mechanism and to revise its Rule 14.1.1 Conservation and Rationing Plan.¹ Phase I of this proceeding concerned review of a single request: the removal of Cal Am’s outdoor landscaping allotment. Parties entered into a settlement agreeing to the removal of the outdoor landscaping allotment.²

¹ Application (“A.”)15-07-019, Application of California-American Water Company (U-210W) for Authorization to Modify the Conservation and Rationing Plan, Rate Design, and other Related Issues for the Monterey District, July 14, 2015.

² Cal Am, the Monterey Peninsula Water Management District (“MPWMD”), ORA and the Coalition of Peninsula Businesses are parties to the Phase I settlement.

On May 11 through May 13 and May 16, 2016, Evidentiary Hearings (“EH”) were held regarding the remaining issues. At the EH, Administrative Law Judges (“ALJs”) Gary Weatherford and Burton Mattson instructed the parties to file opening briefs consistent with a common briefing outline created by Cal Am. This brief will address the reasons that the Commissions should adopt ORA’s recommendations on the following issues: WRAM amortization period, interest, and balance amounts, the proposed annual consumption true-up mechanism, rate design, and the proposed modifications to Rule 14.1.1.

II. WATER REVENUE ADJUSTMENT MECHANISM (“WRAM”)

ORA recommends that the Commission authorize Cal Am to recover and amortize a WRAM balance of \$22.1 million, calculated as of December 31, 2014, over a period of five years with no interest (*see* **Section C.** below for details on the calculation)³

A. Amortization

ORA recommends a five-year amortization period for the WRAM balance considered in this proceeding to reasonably balance intergenerational equity and the need to reduce potential ratepayer rate shock.⁴ While Cal Am argues that the WRAM balance should be amortized over a period of 20 years in order to reduce rate shock,⁵ a 20-year amortization period would drastically increase Cal Am’s total collection over the amortization period. Cal Am’s proposed 20-year amortization period also undermines intergenerational equity concerns because it is highly likely that a different generation of ratepayers would pay the surcharges for WRAM balances that accumulated during much earlier periods.⁶ ORA’s proposal of a five-year amortization period strikes a reasonable balance between intergenerational equity concerns and the need to reduce rate shock.⁷

³ Exhibit 104, ORA Phase II Report at p. 2-1, lines 19-21.

⁴ Ibid at pp. 2-13, lines 13-16.

⁵ Exhibit 9, Direct Testimony of Jeffrey Linam at p. 26, Answer 32.

⁶ Exhibit 104, ORA Phase II Report at pp. 2-13, lines 9-12.

⁷ Ibid at pp. 2-13, lines 13-15.

ORA does not oppose Cal Am's request to collect WRAM surcharges in this proceeding on the basis of meter sizes for both residential and non-residential customer sizes. However, the Commission should require Cal Am to use the standard meter charge ratios in CPUC Standard Practice U-7-W for the WRAM surcharge calculation.⁸

The Commission should require Cal Am to file applications rather than submit advice letters to recover future Monterey WRAM balances. As ORA demonstrated, Cal Am has provided inconsistent and unreliable data throughout the course of this proceeding.² Therefore, close scrutiny is warranted and requiring Cal Am's WRAM filings to be reviewed in a formal proceeding would allot the time needed for discovery and fact-finding.¹⁰

B. Interest Rate

The Commission should disallow the recovery of any interest on the WRAM balance that it authorizes Cal Am to amortize. As ORA's witness Mukunda Dawadi testified, the revenues tracked in the WRAM balance already reflect the inclusion of Cal Am's authorized rate of return.¹¹ Also, once the Commission authorizes recovery of a specified amount of the existing WRAM balance, there will be virtually no risk to Cal Am recovering the authorized amount in full.¹² Most importantly, it would be extremely detrimental to ratepayers if the Commission were to authorize Cal Am to collect any interest on the WRAM balance. If Cal Am's proposal to collect interest at a rate of 8.41% was adopted, the Monterey district ratepayers will pay roughly \$91.3 million in total surcharges to recover the proposed \$40.6 million WRAM balance.¹³ This means

⁸ CPUC Standard Practice U-7-W at p. 5.

² Exhibit 104, ORA Phase II Report at p. 2-16, lines 8-12.

¹⁰ Ibid at pp. 2-16, lines 12-16.

¹¹ EH Transcript, vol. 6 at pp. 905-906 and Exhibit 104 at pp. 2-13, lines 21-23.

¹² EH Transcript, vol. 6, 918-919.

¹³ Exhibit 104, ORA Phase II Report at pp. 2-13, lines 4-7.

that Monterey ratepayers will pay an *additional \$47.2 million in interest alone*.¹⁴ This results in Cal Am collecting more than double the amount of its existing WRAM balance. It would be unreasonable to allow Cal Am to collect double the amount of its existing WRAM balance to the detriment of ratepayers.

Furthermore, as Mr. Dawadi testified, the authorized revenue requirement (and the potential profit contained therein) is not guaranteed by the Commission.¹⁵ The WRAM permits Cal Am to track anticipated revenues that were not actually collected. However, if anticipated revenues are not actually collected, yet a company such as Cal Am is able to remain profitable during the same period, the ability to recover the WRAM balance at a later point in time does not provide for payment of some non-existent debt, but rather guarantees additional profit.¹⁶ Allowing interest to accrue and be recovered on additional guaranteed profits would be anathema to the requirements of “just and reasonable” rates embodied in the Public Utilities Code.¹⁷ Therefore, regardless of the amount approved for recovery, Cal Am should not be authorized to accrue additional interest on the WRAM balance at issue.

C. Amount

The Commission should allow Cal Am to amortize a WRAM balance of \$22.1 million, calculated as of December 31, 2014. The Commission should make ORA’s recommended reductions which include: (1) \$17.4 million to reflect undercollections resulting from Cal Am’s mismanagement of its allotment rate design; (2) a downward adjustment of the Unaccounted Water (“UAW”) Reward by \$258,932 because Cal Am’s 2014 UAW reward calculation is based on the impossible facts of selling more water than the production during 2014; and (3) the results of the PwC audit served by Cal Am to the Commission on January 19, 2016 in this proceeding.

¹⁴ Ibid.

¹⁵ EH Transcript, vol. 6, at p. 907, lines 24-28, ORA Witness: Dawadi.

¹⁶ Exhibit 104, ORA Phase II Report at p. 2-15, lines 12-15.

¹⁷ PUC § 451.

1. Cal Am's Mismanagement of its Allotment Rate Design Has Artificially Exacerbated the WRAM Balances

Cal Am has mismanaged its allotment rate design.¹⁸ According to Cal Am's expert witness, allotment rate designs require that "[p]roperty and household characteristics [are] established and verified, not just once, but indefinitely."¹⁹ At the inception of Cal Am's allotment rate design, the Monterey Peninsula Water Management District ("MPWMD") Ordinance 92 required that Cal Am "prepare a per-capita-based tariff rate design" and further required that the rate design "be based on...an accurate survey of water users[.]"²⁰ Ordinance 92 required that Cal Am "request information to determine the number of permanent residents in each dwelling unit," including "information deemed appropriate for the effective operation of this program . . ."²¹ Finally, Ordinance 92 authorizes the MPWMD to periodically audit the survey data for accuracy and authorizes penalties for customers who have misreported the number of permanent residents in a dwelling unit.²² In the approved settlement that established Cal Am's WRAM, Cal Am agreed to "take reasonable measures to identify miscategorizations in its documentation for number of people," which would be accomplished "in part" through an annual customer survey, a provision that could impact recovery of the WRAM, as noted by ORA's witness at the evidentiary hearing in this proceeding.²³

¹⁸ Under its allotment rate design, Cal Am allots residential customers certain amounts of consumption at each tiered rate based on the number of residents in a household ("per capita allotment"), the size of the customers' lot, the number of large animals residing on the premises, as well as for medical conditions and other considerations. Increasing an allotment increases the amount of water a customer can purchase at a given tier. In Phase I of this proceeding, the Commission authorized Cal Am to eliminate this outdoor landscaping allotment. *See* D.16-03-014. Exhibit 2 Direct Testimony of Sherrene Chew at 11.

¹⁹ Exhibit 6, Rebuttal Testimony of Ann T. Bui at p. 11.

²⁰ Exhibit 13, Rebuttal Testimony of Dave Stephenson, Attachment 1 at p. 4.

²¹ *Ibid*, Attachment 1 at p. 14.

²² *Ibid*, Attachment 1 at pp. 16-17.

²³ D.09-07-021, Appendix A, Conservation Rate Design Settlement Agreement at 9-10; and EH Transcript Vol. 6, ORA Witness: Dawadi at pp. 920-922.

Despite the numerous and explicit authorities listed above, Cal Am testified that it has no authority to verify customer-provided information.²⁴ Incredibly, Cal Am attempts to blame the Commission for mismanagement of the company's allotment rate design by noting that the Commission has never specifically directed the company to ensure accurate residential surveys (as the Commission had done with commercial customers). Accordingly, Cal Am reasons, it had no obligation to take measures to ensure the accuracy or even basic reasonableness of the survey responses received.²⁵

Despite testifying to its own awareness "that the allotment process has encouraged an over-reporting of the number of individuals residing in Monterey,"²⁶ Cal Am asks for no information to determine the number of residents residing in a household other than the customers' own representation of the number of persons residing in the household.²⁷ During the sixteen years the allotment rate design has been in place, Cal Am has never performed an audit of a sample group of residential customers, let alone an audit of a single residential customer's per capita allotment²⁸ nor has it ever requested that MPWMD perform such audits.²⁹

a) Cal Am's Mismanagement of the Allotment Rate Design Has Led to Over-Reporting of Full-Time Occupants

In Cal Am's own words, "the allotment process has encouraged an over-reporting of the number of individuals residing in Monterey."³⁰ For example, "[t]he total reported

²⁴ EH Transcript, vol. 6 at pp. 854-855, lines 23-28, Cal Am Witness: Stephenson.

²⁵ Ibid. at 855.

²⁶ Exhibit 9, Direct Testimony of Jeffrey T. Linam (Corrected Version) at p. 11, lines 1-2; and Exhibit 1, Direct Testimony of Eric Sabolsice at 17, 23.

²⁷ Exhibit 13, Rebuttal Testimony of Dave Stephenson at p. 21: "Cal Am does not [require customers to provide verification of the number of residents per household]."

²⁸ Exhibit 1, Direct Testimony of Eric Sabolsice at 18; EH Transcript, vol. 3 at 356, lines 4-5, Cal Am Witness: Sabolsice.

²⁹ EH Transcript, vol. 3 at p.365, lines 4-21, Cal Am Witness: Sabolsice at.

³⁰ Exhibit 9 Direct Testimony of Jeffrey T. Linam (Corrected Version) at p. 11.

full time population for the Monterey District via surveys in 2015 was 117,593”³¹ while “the 2010 census data utilized to develop the Urban Water Management Plan for the Monterey District indicates a residential population of 100,000.”³² Similarly, the total reported full time population in 2014 was 115,148.³³

**b) Overstatements in the Allotment Surveys
Have Led to WRAM Undercollections**

Overstatements in the allotment surveys have led to WRAM undercollections. Cal Am states: “[w]ith the current rate design and rationing plan aligned highly with the rate design customer counts, it becomes obvious that some customers are allocated more water at lower rates than intended under the rate design.”³⁴ This is because, as Cal Am states, “[i]f a customer chooses to misrepresent the number of residents in a household, that property will receive more water allocated at the lower tiers, improperly lowering the bill for that household.”³⁵ This decreases the amount of consumption Cal Am charges at higher tiered rates, decreasing the amount of revenue Cal Am can collect. ORA estimates that through 2014, a minimum of \$17.4 million of Cal Am’s claimed undercollections resulted from the mismanagement of the allotment system.³⁶

Circumstances surrounding Cal Am’s rebuttal testimony and revision to its direct testimony regarding this issue undercut its claims and credibility when opposing this disallowance. As noted above, Cal Am admitted in direct testimony that it was “obvious” that it had allocated more water to customers at lower tiers than projected under the rate design.³⁷ Additionally, Cal Am admitted in the direct testimony of Jeffrey Linam that “[w]hen the number of allotments increases relative to the level used to determine rates,

³¹ Exhibit 12, Rebuttal Testimony of Eric Sabolsice at p. 6.

³² Exhibit 1 Direct Testimony of Eric Sabolsice at p. 17.

³³ Exhibit 104, ORA’s Phase II Report at p. 1-12.

³⁴ Exhibit 1, Direct Testimony of Eric Sabolsice at p. 19.

³⁵ Ibid at 19.

³⁶ Exhibit 104, ORA’s Phase II Report at Attachment 1-A.

³⁷ Exhibit 1, Direct Testimony of Eric Sabolsice at p. 19.

this can result in significant under recovery of authorized revenues.”³⁸ After ORA served its testimony recommending a \$17.4 million disallowance based in part on these admissions, Cal Am introduced revised testimony, striking out Linam’s admissions, stating that he could not state that his testimony was true and correct with the items included.³⁹

However, not only does Linam’s rebuttal testimony not refute the redacted portions of his original direct testimony,⁴⁰ the revised version of Linam’s direct testimony maintains the same underlying position as the redacted portions.⁴¹ There is simply no reason for Linam’s earlier testimony to have been stricken, aside from the fact that it supports ORA’s disallowance.

Equally suspect is Cal Am’s rebuttal evidence proffered to support its recent claim that overstated allotments have remained constant and so actually could not have contributed to WRAM undercollections.⁴² ORA requested allotment data from Cal Am in September, 2015.⁴³ Cal Am stated that, due to a change in Cal Am’s record keeping system, it did not possess allotment data for years prior to October, 2013.⁴⁴ Thus, ORA’s

³⁸ Exhibit 105 Redlined Version of the Direct Testimony of Jeffrey Linam at p. 11.

³⁹ EH Vol. 3, Cal Am Attorney Dolqueist at p. 426, lines 1-10.

⁴⁰ The first substantive strike in Exhibit 105, Linam’s redlined original testimony, that “[w]hen the number of allotments increases relative to the level used to determine rates, this can result in significant under-recovery of authorized revenues” is not rebutted by Cal Am’s rebuttal testimony. The rebuttal testimony of Dave Stephenson addresses this issue head on, saying only that “as long as the allotments that are used in developing the rate design to recover the revenue requirement are essentially equal to the allotments used in calculating actual customer bills, the WRAM/MCBA balance can’t possibly be overstated as ORA suggests.” Exhibit 13, Rebuttal Testimony of Dave Stephenson at p. 26. This does not rebut Linam’s earlier claim, rather plainly accepts its premise and declares that the opposite facts occurred, that the allotments didn’t increase relative to the level used to determine rates.

⁴¹ In the *corrected* version of his testimony, responding to the prompt “[p]lease explain the cause of the significant under-collections in Monterey as it relates to residential customers[,]” Linam still states “Third, it appears that the allotment process has encouraged an over-reporting of the number of individuals residing in Monterey.” See Exhibit 9, Revised Direct Testimony of Jeffrey Linam at pp. 10-11.

⁴² Exhibit 3, Rebuttal Testimony of Sherrene Chew at pp. 4-5.

⁴³ Exhibit 100, ORA’s Phase 1 Report at pp. 9-10, citing Cal Am allotment data provided in response to a data request.

⁴⁴ Exhibit 104, ORA’s Phase II Report at p. 1-12.

estimated recommended disallowance is based on the only full year for which Cal Am provided allotment data: 2014. After ORA served this testimony and before Cal Am filed its rebuttal, a window of 20 days, Cal Am managed to access data it had previously denied ORA.

To be very clear, this eleventh-hour apparitional data does not support the conclusion that the allotments have remained constant and have not affected the WRAM balance. The data is fundamentally incomplete, portraying only allotments for *single-family* residential customers when in 2015 *multi-family* residential customers reported more than 30 percent of Cal Am's total reported full time occupants.⁴⁵ However, even if it were complete, its credibility is called into question by Cal Am's inability to reconcile its existence with prior denials of access, with contradictory full-time occupant counts as reported in 2013 and 2014, and with its own admissions in direct testimony.

Cal Am's failure to reasonably manage its allotment system means that Cal Am has benefitted for years from the goodwill secured from authorizing and maintaining inflated discounts for its residential customers. However, this type of corporate goodwill should not be afforded recovery in rates and surcharges. Cal Am's manipulation of the WRAM to generate corporate goodwill with the cost of such goodwill furtively socialized amongst all ratepayers via WRAM surcharges is abusive and the Commission should put a stop to it.

2. ORA Recommends a Downward Adjustment of \$258,932 to the WRAM Balance for Anomalies in the UAW Reward Calculation

The Commission should remove \$258,932 from the WRAM balance because Cal Am's 2014 UAW reward calculation is based on the impossible facts of selling more water than actually produced.⁴⁶ Although Cal Am attempts to refute ORA's adjustment for the 2014 UAW reward amounts, Cal Am admits that it has benefited from the reward

⁴⁵ Exhibit 12, Rebuttal Testimony of Eric Sabolsice at p. 6.

⁴⁶ Exhibit 104, ORA Phase II Report at p. 2-8, lines 4-14.

calculation methodology since Cal Am withheld “many customer bills for more than 3 months resulting in not recording the customer usage from those bills until early in 2014.”⁴⁷ Despite knowing that this could affect its UAW calculation, Cal Am proceeded to use this deferred billing data to report total sales of 10,040 acre feet of water in the Monterey Main system in 2014, while the total production of water during the same period was only 9,897 acre feet.⁴⁸ To discourage Cal Am from continuing this practice of gaming the timing of water sales and production to increase its UAW reward, the Commission should reduce the WRAM balance by \$258,932 to reflect the actual amounts that Cal Am reported for 2014, and reject Cal Am’s practice of selectively combining data from different periods in 2013 and 2014 as Cal Am had done in calculating its UAW reward.

3. PwC Recommended WRAM Reduction of \$0.8 Million

The Commission should adjust Cal Am’s proposed WRAM balance by \$0.8 million as a result of the financial audit performed by PwC.⁴⁹ Therefore, the total WRAM reduction should be \$18.5 million (\$17.4 million for company mismanagement of the allotment system plus \$0.3 million for UAW anomalies plus \$0.8 million resulting from PwC audit).

III. ANNUAL CONSUMPTION TRUE-UP MECHANISM

The Commission should not authorize Cal Am’s request for an Annual Consumption True Up Mechanism (“ACTUM”) for the following reasons: (a) it does not provide benefits to ratepayers; (b) adjustments to adopted consumption values necessitate scrutiny beyond that which can be provided by AL filing; (c) Cal Am’s previous request was denied by the Commission for reasons that still exist for this request; and (d) the

⁴⁷ Ibid at p. 14, lines 21-24.

⁴⁸ Exhibit 104 at p. 2-8, lines 4-14.

⁴⁹ PwC Examination Report served on January 19, 2016.

Commission is currently examining this process in an open rulemaking (“R.”) proceeding, R.11-11-008.

A. Cal Am’s ACTUM Does Not Provide Benefits to Ratepayers

The ACTUM would not provide the benefits that Cal Am alleges⁵⁰ as it does not reduce surcharges nor has it been proven to reduce the WRAM balance. In fact, Cal Am’s analysis omitted pertinent facts that would affect the outcome of its proposed ACTUM. There is also no evidence that the ACTUM would reduce costs for the Monterey Water Supply Project.

1. The ACTUM Would Not Reduce Surcharges or the WRAM Balance

As ORA confirmed, Cal Am does not propose to eliminate any of its existing surcharges and therefore, the number of surcharges would remain the same.⁵¹ Cal Am alleges that it needs to adjust rates more frequently to prevent further under-collected balances.⁵² However, the record contains no evidence of a correlation between a consumption true-up and reduced WRAM balances. Thus, it is speculative to assume that the proposed pilot program would increase the accuracy of sales forecasting and decrease WRAM balances. Cal Am’s witness Linam attempted to demonstrate a correlation between a consumption true-up and reduced WRAM balances in Table 1⁵³ of his rebuttal testimony but failed to account for price elasticity.⁵⁴ During cross examination, Linam agreed that if the ACTUM were in place from 2010 to 2015, rates would have been adjusted upward each year to account for lower consumption than

⁵⁰ See Exhibit 9, Direct Testimony of Jeffrey T. Linam at pp. 25-26 for list of Cal Am’s proposed benefits.

⁵¹ Exhibit 104, ORA Phase II Report p. 3-3, lines 18-20.

⁵² Exhibit 11, Rebuttal Testimony of Jeffrey T. Linam at p. 12, lines 15-16.

⁵³ Ibid at p. 19.

⁵⁴ EH Transcript vol. 3, p. 460, Cal Am witness: Jeffrey T. Linam.

predicted.⁵⁵ Linam further agreed that consumption possibly could have decreased in each of those years (2010-2015) presented in Table 1 due to the higher rates.⁵⁶

Therefore, the data presented in Linam's Table 1 is unreliable and highly speculative as there are important factors that were excluded that could have a significant impact on the results.

Even without taking price elasticity into account, Linam's Table 1 demonstrates that even with the ACTUM, 80% of the WRAM balance would have still existed.⁵⁷ Table 1 further demonstrates that the impact of Adjusted Consumption is only 4% of total revenues⁵⁸ and 6% of recorded revenues.⁵⁹ This demonstrates that the ACTUM would not have a significant impact, if any, on WRAM undercollections and would not provide any meaningful benefit to Monterey ratepayers.

2. There is no Evidence that the ACTUM Would Lower the Costs of the Monterey Peninsula Water Supply Project ("MPWSP").

Contrary to Cal Am's speculative claim that the proposed pilot program will lower financing costs for the MPWSP by lowering the overall risk profile of the securitized debt,⁶⁰ the record also contains no evidence that the ACTUM would lower the costs of the MPWSP. As discussed above, no proven correlation exists between a true-up mechanism and WRAM balances. Even if there were an impact, Cal Am's revenue requirement would remain the same. In terms of cash flow,⁶¹ the impact of the ACTUM is at most 4% of total revenues in just one of Cal Am's Districts. Therefore the ACTUM

⁵⁵ Ibid at p. 458, Cal Am witness: Jeffrey T. Linam.

⁵⁶ Ibid at p. 459, Cal Am witness: Jeffrey T. Linam.

⁵⁷ Ibid at p. 458, Cal Am witness: Jeffery T. Linam.

⁵⁸ Exhibit 11, Rebuttal Testimony of Jeffrey T. Linam at p. 19, the total of the last column in Table 1 divided by the total of the first column in Table 1 = 4%.

⁵⁹ Ibid, the total of the last column in Table 1 divided by the total of the second column in Table 1 = 6%.

⁶⁰ Exhibit 9, Direct Testimony of Jeffrey T. Linam, at p. 26.

⁶¹ See Exhibit 11, Rebuttal Testimony of Jeffrey T. Linam at p. 20.

provides minimal impact, if any, on revenue stability and minimal impact, if any, on financing for MPWSP.

3. Cal Am's ACTUM Does Not Resolve the Complex Problems in Monterey.

Cal Am may attempt to argue that its ACTUM is not as complex as that of California Water Company ("Cal Water"); however, its ACTUM does not resolve the complex problems that exist in Monterey. During cross examination, Linam attempted to argue that Cal Am's pilot program is not as complex as Cal Water's Sales Reconciliation Mechanism ("SRM"), and described the ACTUM as "a very simple process".⁶² However, the Monterey situation is complex and cannot be resolved by a simple mechanism. As Linam admitted, "there's lots of factors in Monterey that impact demand"⁶³ and "there are a lot of things happening in Monterey."⁶⁴ The Commission should not authorize a "simple process" for a complex problem that Cal Am attempts to justify with one "very simple analysis."⁶⁵ In general, sales forecasting and customer usage depend on a number of factors including (but not limited to) weather, economics, drought mandated reductions, changes to codes and standards, estimated number of new users, bill adjustments, and unaccounted for/non-revenue water.⁶⁶ Cal Am's proposed pilot program would not assess any of these factors, and would instead make adjustments exclusively based on the previous year's consumption.⁶⁷

It is also important to note that Cal Am's proposed ACTUM undermines the importance of comprehensively considering all inputs (revenues) and outputs (costs)

⁶² EH Transcript, vol. 3 at p. 461.

⁶³ Ibid at p. 459.

⁶⁴ Ibid at p. 460.

⁶⁵ As Linam describes his analysis in EH Transcript, vol. 3, at pp. 459-460.

⁶⁶ Exhibit 104, ORA Phase II Report at p. 3-8, lines 8-11.

⁶⁷ Ibid at pp. 3-8, lines 14-15.

when developing and authorizing utility rates.⁶⁸ Adjusting rates for only one component of one year's worth of selective data is the very definition single-issue ratemaking, which is a practice that regulators generally seek to avoid.⁶⁹ Examining only a year's worth of consumption data yields an incomplete picture of a utility's overall financial performance and opportunity to earn a return by completely ignoring expenses, capital spending, and other sources of revenue – all of which need to be considered when changing customer rates.⁷⁰ Cal Am has clearly had problems forecasting sales and consumption in Monterey and this shortcoming is not resolved by making selected annual adjustments that ignore other significant contributing factors.

B. Adjustments to Adopted Consumption Values Necessitate Scrutiny Beyond that Which can be Provided by Advice Letter Filing

The Commission should deny Cal Am's proposal to adjust adopted consumption values via advice letter filing because evaluating consumption patterns and their potential rate impacts require a level of scrutiny beyond that which can be provided in an advice letter filing.⁷¹ Cal Am admits that its proposed ACTUM is similar to approaches used for the energy utilities.⁷² At the same time, Cal Am failed to acknowledge that the gas utilities adjust demand forecasting in a cost allocation proceeding and electric utilities establish demand forecasts in a GRC proceeding, both of which afford a completely different level of attention and scrutiny than adjusting and establishing new forecasts in a Tier 2 advice letter filing.⁷³ The electric and gas formal proceedings also do not have a

⁶⁸ Ibid at pp. 3-9, lines 11-14.

⁶⁹ Ibid at pp. 3-10, lines 1-3.

⁷⁰ Ibid at p. 3-10, lines 6-9.

⁷¹ Ibid at pp. 3-8, lines 5-8.

⁷² Exhibit 9, Direct Testimony of Jeffrey Linam at pp. 24-25.

⁷³ Exhibit 104, ORA Phase II Report at pp. 3-6, lines 20-23.

pre-determined adjustment amount established like that which would result if Cal Am's proposed ACTUM were authorized.⁷⁴

Also, the accuracy and reliability of Cal Am's data is of great concern as Cal Am has provided conflicting data in filings and data request responses on several occasions during this proceeding.⁷⁵ ORA has had difficulty validating Cal Am's consumption data within the context of this proceeding. In fact, at different times and in different submissions to the Commission, Cal Am has offered five different numbers for the amount of residential consumption in the Monterey Main system in 2013.⁷⁶ Considering the time frame allotted for advice letter filings versus a formal application, and given Cal Am's history of providing inaccurate and unreliable consumption data, the Commission would be ill-advised to allow Cal Am to file an advice letter rather than a formal application when attempting to adjust rates.

As previously stated, other factors must be considered when changing rates. "Comprehensively examining all relevant information in the context of a larger proceeding is fundamental to establishing just and reasonable rates and should not be abandoned by allowing Cal Am's proposal to proceed."⁷⁷ From well-established principles, the Commission should avoid single-issue ratemaking that would result from the ACTUM developing new rates by considering only revenue changes, rather than the changes in both revenue and cost that are normally considered when developing rates. It is both logical and equitable for the Commission to consider all relevant factors that affect a utility's opportunity to earn a reasonable rate of return in a general rate case or application proceeding.⁷⁸

⁷⁴ Ibid at pp. 3-6 through 3-7.

⁷⁵ Ibid at pp. 3-8, lines 18-20.

⁷⁶ Ibid at pp. 3-8, lines 20-25. This point is further illustrated in Table 3-A of ORA's report. Ibid at pp. 3-9. With the exception of one number, which contained an extra zero and was corrected by ORA in the evidentiary hearings, ORA's Table 3-A correctly presents Cal Am's consumption submissions to ORA and Cal Am does not refute that it provided conflicting consumption data.

⁷⁷ Exhibit 104, ORA Report Phase II Report at pp. 3-10, lines 9-11.

⁷⁸ Ibid at pp. 3-10, lines 3-6.

C. The Commission Previously Denied Cal Am's Request For Reasons that Still Exist Today

The Commission must deny Cal Am's request for an ACTUM because D.15-04-007 made it clear that "authorizing further pilot programs based on Cal Water's mechanism before a review is completed could lead to flawed designs and unintended consequences being replicated in other pilot programs."⁷⁹ As Cal Am's witness, Linam testified, the Commission has not reviewed Cal Water's pilot drought SRM as required by D.15-04-007.⁸⁰ Therefore, the Commission would act prematurely in this proceeding if it were to authorize Cal Am's proposed ACTUM.

D. The Commission is Examining this Issue in R.11-11-008

In R.11-11-008, the Commission is currently examining, in the context of a multi-utility rulemaking proceeding, the policy issue of whether sales forecasting for water Investor Owned Utilities should occur more frequently.⁸¹ That proceeding includes a review of SRMs and a water demand attrition mechanism.⁸² Therefore, a Commission decision authorizing the proposed ACTUM in the instant proceeding could conflict with an as-yet course of action determined in R.11-11-008.

Furthermore, ORA has considered the urgency to address the rate design and WRAM balances that exists in the Monterey district. ORA's recommendations offer the best path to address the current rate design issues and outstanding WRAM balances in the Monterey district. ORA's recommended standardized inclining block rate design realigns cost-recovery with consumption, maintains strong conservation-oriented price signals, and promotes revenue stability.⁸³ Therefore, the Commission should not act hastily or prematurely to grant Cal Am's ACTUM proposal before it determines the impact of the current revisions to Cal Am's rate design. This would also give the

⁷⁹ D.15-04-007 at p. 21.

⁸⁰ EH Transcript, vol. 3, at pp. 454-455, Cal Am Witness: Linam.

⁸¹ Exhibit 104, ORA Phase II Report at pp. 3-10.

⁸² Ibid at pp. 3-10 – 3-11.

⁸³ Ibid at pp.1-2, lines 7-9.

Commission time to abide by D.15-04-007 by reviewing Cal Water's SRM prior to authorizing any further pilot programs.

IV. RATE DESIGN

A. Cost Allocation

The Commission should require Cal Am to allocate cost recovery across customer classes based on a class's proportion of total consumption. Under Cal Am's proposed rate design, residential customers are projected to consume only 63 percent of projected water deliveries, and yet will be responsible for paying nearly 70 percent of Cal Am's revenue requirement.⁸⁴ Aligning allocation of costs with consumption by moving roughly \$3 million of Cal Am's current revenue requirement from residential recovery to non-residential recovery ensures that each customer class is receiving appropriate and equitable price signals with regard to its share of water use in the Monterey system.

Cal Am does not allocate revenues across customer classes on the basis of costs, as Cal Am has not performed a cost analysis study or marginal cost analysis.⁸⁵ Thus, while Cal Am asserts that ORA's methodology is not appropriate because there are fixed costs which are not volume driven,⁸⁶ Cal Am has performed no study to ascertain which costs those may be and how they should be allocated across customer classes. Instead, Cal Am states that it uses the Commission's Standard Rate Design, as adopted in D.86-05-064 to allocate costs.⁸⁷ However, Cal Am's reliance on this decision is misplaced. Not only does this decision not speak directly to the issue of equitable allocation of revenues across customers classes, the decision recognizes that it adopts a

⁸⁴ Exhibit 104, ORA Phase II Report at pp. 1-8.

⁸⁵ Exhibit 104, ORA's Phase II Report at 1-9; additionally while Cal Am allocates 50 percent of its costs on the basis of number of meters under the Standard Rate Design, no marginal cost of service study cited by ORA or Cal Am shows a utility allocating more than 31 percent of costs on that basis, and over half of the utilities allocate less than ten percent of costs on the basis of number of meters. Exhibit 104, ORA's Phase II Report at fn. 30, *see* PA Consulting Group, Los Angeles Department of Water and Power 2014 Water Service Cost of Service Study at Fig. 27, Exhibit 3 Rebuttal Testimony of Sherrene Chew at fn.12,

⁸⁶ Exhibit 3, Rebuttal Testimony of Sherrene Chew at p. 9.

⁸⁷ Exhibit 104, ORA's Phase II Report at pp. 1-9.

“generic” rate design,⁸⁸ which Cal Am itself deviates from in a number of ways, including the use of more than three commodity blocks.⁸⁹

Allocation of costs on the basis of consumption results in a fair, equitable and logical division of costs and strengthens conservation price signals sent to each customer class.

B. Use of 2014 Consumption

ORA does not oppose Cal Am’s request to use 2014 consumption and consumption per tier as the basis of its rate design.

C. Allotment Rate Design

ORA does not oppose Cal Am’s request to eliminate its allotment rate design for its residential customers.

D. Fixed Cost Recovery

ORA does not oppose Cal Am’s request to collect 30 percent of the revenue allocated to residential customers through residential meter charges.

E. Meter Charge Ratios

The Commission should retain the standard meter charge ratios for Cal Am’s residential customers. Cal Am proposes residential meter charge ratios which differ from those contained in the Commission’s Standard Rate Design.⁹⁰ Cal Am states that this is “necessary to ensure that lower use customers were not disproportionately affected by the overall change in rate design.”⁹¹ However, the Commission’s standard meter charge ratios were developed based on proportionate maximum flow capacity, i.e., they intrinsically allocates cost proportionately based on flow.⁹² A better measure to ensure

⁸⁸ D.86-05-064, Order Instituting Investigation (Rulemaking) into Water Rate Design Policy at p. 13.

⁸⁹ Exhibit 104, ORA’s Phase II Report at pp. 1-9 through 1-10.

⁹⁰ Exhibit 2, Direct Testimony of Sherrene Chew at p. 18.

⁹¹ Exhibit 2, Direct Testimony of Sherrene Chew at p. 19.

⁹² Exhibit 104, ORA’s Phase II Report at pp. 1-17.

that lower use customers are not disproportionately affected by the rate design is ORA's proposal to maintain the existing steeply-tiered rate differentials.

F. Tiered Rate Differentials

The Commission should retain Cal Am's current tiered rate differentials. Cal Am requests and ORA does not oppose shifting more cost recovery into meter charges in order to increase revenue stability.²³ However, this change dampens conservation price signals making a smaller portion of customers' bills vary with changes in consumption. Maintaining the current steeply-tiered rate differentials ensures that conservation price signals are promoted at the same time as revenue stability.

Cal Am states that "[t]he aggressive differentials were tools to help meet the production limitations of the CDO [Cease and Desist Order]" but that when a replacement supply project comes online, such drastic tier differentials may be unnecessary. "Therefore, the objective in this proposal is to move in that direction now. . . ."²⁴ However, the requirements of the CDO are still in effect and MPWMD has testified that Cal Am is approaching another significant ramp-down in withdrawals from the Carmel River. In fact, delays in the water supply project proceeding have ensured that a replacement supply will not come online until at least the middle of 2019.²⁵ These undisputed circumstances do not support a softening of tier differentials but rather the development of an even more aggressive rate design—or at least maintaining the current tiered rate differentials as proposed by ORA.

Finally, steeply-tiered rate differentials allow for those who consistently use the least amount of water to see less of a rate increase under the current proposals than those

²³ Exhibit 104, ORA's Phase II Report at pp. 1-17.

²⁴ Exhibit 2, Direct Testimony of Sherrene Chew at p. 22.

²⁵ Direct Testimony of Dave Stoldt at 12; Exhibit 1 Direct Testimony of Eric Sabolsice at p. 6: "The ability to meet that deadline [the physical cliff] with sufficient replacement production is impossible at this point due to significant delays in the approval process of the proposed facilities to do so."

who purchase water in the upper tiers. This helps to ensure that lower use customers are not disproportionately affected by the overall changes in rate design.⁹⁶

V. Revisions to Rule and Schedule 14.1.1

The Commission should authorize Cal Am's requests to modify its Rule 14.1.1, with adjustments to incorporate ORA's proposed rate design in the sections pertaining to rationing.

The Commission should require Cal Am file a Tier 2 advice letter not only before increasing stages, but also before increasing emergency conservation rates. The Commission requires that a Tier 2 advice letter be filed when activating Schedule 14.1 or activating an increased stage of a Schedule 14.1.⁹⁷ Cal Am proposes to have two levels of emergency conservation rates in Stage 3 of its conservation plan.⁹⁸ Because the elevation from one level of conservation rates to the next is functionally similar to increasing stages, and represents an increase in rates to customers, the Commission should require Cal Am to file a Tier 2 advice letter before advancing from Level 1 to Level 2 emergency conservation rates.

VI. SAFETY CONSIDERATIONS

ORA is not aware of any safety concerns posed by the requests made in Cal Am's application.

VII. CONCLUSION

For the reasons stated herein, the Commission should authorize Cal Am to amortize a WRAM balance of \$22.1 million which reflects adjustments for Cal Am's mismanagement and oversight of its allotment system, UAW anomalies, and PwC's report findings. The Commission should authorize Cal Am to amortize the WRAM balance of \$22.1 million over a period of five years with no interest in order to prevent

⁹⁶ Exhibit 104, ORA's Phase II Report at Attachment 1-C, Comparison of Base Bills under Cal Am's Current Rate Design, Cal Am's Proposed Rate Design and ORA's Proposed Rate Design.

⁹⁷ Exhibit 104, ORA's Phase II Report at p. 4-4.

⁹⁸ Exhibit 1, Direct Testimony of Eric Sabolsice, Att. Proposed Rule 14.1.1 at (J)(4)(b).

rate shock and intergenerational concerns and prevent Cal Am from collecting double the amount of the existing WRAM balance, reducing the financial detriment to ratepayers. The Commission should require Cal Am to file applications rather than submit advice letters to recover future Monterey WRAM balances.

The Commission should adopt ORA's proposed rate design and realign cost allocation by moving 8.4 percent or approximately \$3 million of forecasted revenue collection from residential to nonresidential rates in order to achieve proportionality between consumption and cost recovery.

The Commission should deny Cal Am's request for an annual consumption true-up mechanism because it provides no benefit to ratepayers and the proposed benefits that Cal Am provided are speculative and not supported by evidence. Also, D.15-04-007 made it clear that the Commission will not authorize pilot programs before it reviews Cal Water's SRM, which has yet to be completed. Furthermore, given the inconsistency and unreliability of the data Cal Am provides, it would be ill-advised for the Commission to grant Cal Am the ability to adjust rates without the time and consideration afforded in an application or general rate case proceeding.

Lastly, the Commission should adopt Cal Am's proposed changes to Rule 14.1.1 which should be modified to reflect ORA's proposed rate design. Further, the Commission should require Cal Am to file a Tier 2 advice letter not only when activating an elevated stage, but also when increasing emergency conservation rates from the proposed Level 1 Conservation Rates to the proposed Level 2 Conservation Rates.

Respectfully submitted,

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